

To: Reynolds, Thomas[Reynolds.Thomas@epa.gov]; Allen, Laura[Allen.Laura@epa.gov]; Lee, Monica[Lee.Monica@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]
From: Gray, David
Sent: Sat 9/12/2015 12:56:58 PM
Subject: WSJ - Dan Frosch: Superfund Challenges

Colorado Mine Spill Highlights Superfund Challenges

Gold King incident shows difficulty in cleaning contaminated sites

EPA remediation work following the Gold King mine spill last month. Photo: Byron Wiedemann

By

Dan Frosch and Alexandra Berzon

The Colorado mine spill that sent three million gallons of toxic sludge into a river last month highlighted the struggles of the federal Superfund program to clean up contaminated mining sites across the American West.

The program, administered by the Environmental Protection Agency, was set up in the 1980s to remediate the nation's most polluted places, from old factories to landfills. But it has been especially strained by legacy mining sites, which are often impossible to permanently clean up and instead require water-treatment plants or other expensive measures to contain widespread pollution, experts say.

The EPA often faces opposition from communities that distrust the agency and remain fearful of the economic stigma of being labeled a Superfund site. The agency also frequently is confronted with deep-pocketed mining companies who try to fend off efforts to hold them at least partially responsible for cleanup costs.

And for the past decade, the EPA has had to work with diminished finances after levies on oil and chemical companies originally intended to help fund Superfund cleanups expired and weren't renewed by Congress.

The result is that some old mining sites widely acknowledged to be severely contaminated—such as the Gold King mine that led to last month's spill, and others dotting the Upper Animas River Basin near Silverton, Colo.—haven't been contained or cleaned, as the EPA and other stakeholders squabble about the best solution.

"We at EPA are very good at technical cleanups," said Scott Sherman, a former EPA official under President George W. Bush who helped oversee the Superfund program. "But asking us to navigate the politics of building municipal water-supply systems, to doing land planning, to taking people out of a whole town and moving them—these are the types of complexities that are beyond the core of the Superfund cleanup program."

EPA officials acknowledged that Superfund resources were stretched thin for the complex cleanups that old mining sites require.

"Mining sites are very large and have a long history of operations and impacts that typically involve soil contamination and impacts to waterways," said Mathy Stanislaus, the assistant EPA administrator who oversees the Superfund program. "Clearly, it is a challenge, because you have a fixed pot of funds, and we have to balance that among all the sites in the country."

Currently, dozens of mining sites around the U.S. are on the EPA's "National Priorities List" for Superfund cleanups or proposed to be added to the tally. But the taxes designed to fund cleanup costs when responsible parties can't be found expired in 1995, and the multibillion-dollar fund dwindled to

zero in the 2003 fiscal year, according to EPA data. Congressional appropriations have since helped support the program, but they decreased to nearly \$1.1 billion this fiscal year from \$1.3 billion in 2010.

The Colorado spill, which occurred while an EPA contractor was on the site, spurred congressional hearings that began Wednesday, and some lawmakers have chastised the EPA for failing to prevent the incident.

Meanwhile, in southwest Colorado, county and town officials said that many in the Animas River area who had long opposed a Superfund designation were now more open to the idea. That would allow the EPA to legally pursue whoever it deems responsible for the pollution.

"It may be our only choice," said La Plata County Commissioner Gwen Lachelt.

The EPA has been weighing a Superfund designation for the area as the Animas River has become more tainted from runoff from the region's mines. Environmental degradation began worsening around 2004 after the state allowed one of the largest area mines, Sunnyside, to stop treating the toxic water flowing through its mine and to block up that water. But this led to dirty, untreated water leaching into the river through other mines, according to federal and state studies and officials who have worked on trying to solve the problem.

Before the latest blowout at the Gold King Mine, the federal agency began the process to seek out potentially responsible companies for the increasingly toxic wastewater filling the river, including Kinross Gold **KGC -1.30 %** Corporation, which owns the Sunnyside Mine, to pay more for cleanup.

Kinross offered \$10 million to fund a water-treatment plant to clean up the small amount of water still leaking through its mine, in exchange for being absolved of additional responsibility. That proposed plant, however, would be far too small to treat the discharge in the area, according to the company's own commissioned engineering studies, and the EPA hasn't agreed to the deal.

San Juan Corp., which owns the Gold King Mine, has said Sunnyside bears responsibility for the spill and contamination in the area.

A Kinross spokesman said the company shouldn't be held responsible for wastewater emerging from mines it doesn't own. The company plans to use the \$10 million to cover litigation costs if it is not absolved of liability, he said.

Similar issues have complicated cleanups at Superfund mining sites around the West.

Libby, Mont., was designated a Superfund site in 2002 after asbestos contamination from vermiculite mining and processing were linked to the deaths of several hundred people. But more than a decade later—even after more than 2,000 residential and commercial properties were cleaned up—the EPA estimates that as many as 1,400 additional properties still need remediation.

The cost has exceeded \$540 million, far more than the record \$250 million settlement the government negotiated in 2008 with W.R. Grace **GRA 0.06 %** & Co., which owned the operations.

More recently, in Columbia Falls, Mont., an EPA proposal that would designate the area around the now-closed Columbia Falls Aluminum Co. plant a Superfund priority has divided the community of about 4,500 residents.

State Sen. Dee Brown, a Republican who represents Columbia Falls, said some supported a Superfund designation. But others are saying, "We don't want that black cloud hanging over our town," she added.

Write to Dan Frosch at dan.frosch@wsj.com and Alexandra Berzon at alexandra.berzon@wsj.com